

9010/RHD

CICHANOWICZ, CALLAN, KEANE, VENGROW & TEXTOR, LLP  
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Attorneys for Third-Party Defendant Hyundai Merchant Marine Co. Ltd.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FEDERAL INSURANCE COMPANY,

Plaintiff,

- against -

EXPEDITORS INTERNATIONAL OF  
WASHINGTON, INC.; EXPEDITORS  
INTERNATIONAL OCEAN; EXPEDITORS  
INTERNATIONAL FRANCE SAS;

Defendant.

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EXPEDITORS INTERNATIONAL OF  
WASHINGTON, INC.; EXPEDITORS  
INTERNATIONAL OCEAN; EXPEDITORS  
INTERNATIONAL FRANCE SAS;

Third-Party Plaintiffs,

-against-

HYUNDAI MERCHANT MARINE, LTD.,  
BURLINGTON NORTHERN SANTA FE  
RAILROAD, AIR FRANCE AND FEDEX  
TRADE NETWORKS TRANSPORT &  
BROKERAGE, INC.,

Third-Party Defendant.

07 Civ. 3166 (PKC)

**ANSWER TO COMPLAINT**

Third-Party Defendant Hyundai Merchant Marine Co. Ltd. (incorrectly sued as “Hyundai Merchant Marine, Ltd.”) (“HMM”), by its attorneys, Cichanowicz, Callan, Keane, Vengrow & Textor, LLP, answers plaintiffs complaint upon information and belief as follows:

1. Denies knowledge or information sufficient to form of belief as to the truth of the allegations of paragraph 1.
2. Denies knowledge or information sufficient to form of belief as to the truth of the allegations of paragraph 2.
3. Admits that HMM is a Korean corporation, but except as so specifically admitted, denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3.
4. Denies knowledge or information sufficient to form of belief as to the truth of the allegations of paragraph 4.
5. Denies the allegations of paragraph 5.
6. Denies the allegations of paragraph 6.
7. Denies the allegations of paragraph 7.
8. Denies knowledge or information sufficient to form of belief as to the truth of the allegations of paragraph 8.

**AS AND FOR AFFIRMATIVE DEFENSES TO ALL CLAIMS, HMM  
ALLEGES UPON INFORMATION AND BELIEF AS FOLLOWS**

9. Repeat and reallege each and every admission, denial and denial of knowledge or information hereinabove set forth, with the same force and effect as if herein repeated and set forth at length.

**FIRST AFFIRMATIVE DEFENSE**

10. The above shipment was subject to all the terms, conditions and exceptions contained in the HMM bill of lading.

**SECOND AFFIRMATIVE DEFENSE**

11. Any loss and/or damage to the above shipment was due to causes for which HMM is not liable or responsible by virtue of the provisions the applicable Carriage of Goods by Sea Act and/or Harter Act and/or general maritime law.

**THIRD AFFIRMATIVE DEFENSE**

12. Plaintiff failed to mitigate its damages.

**FOURTH AFFIRMATIVE DEFENSE**

13. Any damage to and/or loss of the above shipment was caused by or due to the acts, omissions, fault or neglect of the owners of the shipment, the shippers or receivers and their agents or the nature of the shipment, including inherent vice, or resulted from the acts, omissions, fault or neglect of other persons or entities for which HMM is neither responsible nor liable.

**FIFTH AFFIRMATIVE DEFENSE**

14. HMM's liability, if any, is limited to \$500 per package or, for goods not shipped in packages, \$500 per customary freight unit.

**SIXTH AFFIRMATIVE DEFENSE**

15. Plaintiff's complaint should be dismissed pursuant to the Korean forum selection clause in the HMM bill of lading.

**SEVENTH AFFIRMATIVE DEFENSE**

16. Plaintiff's complaint is time-barred as against HMM.

WHEREFORE, HMM prays for:

- (a) An order dismissing plaintiff's complaint;
- (b) An award of all costs including attorneys' fees; and
- (c) Such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
September 5, 2007

Respectfully submitted,

CICHANOWICZ, CALLAN, KEANE,  
VENGROW & TEXTOR, LLP  
Attorneys for Third-Party Defendant  
Hyundai Merchant Marine Co. Ltd.

By: s/ Randolph H. Donatelli  
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New York, New York 10007  
(866) 434-4440

**CERTIFICATE OF SERVICE BY REGULAR U.S. MAIL AND BY ECF**


The undersigned declares under penalty of perjury that the following is true and correct:

1. I am over the age of eighteen years and I am not a party to this action.
2. On September 5, 2007, I served a complete copy of HYUNDAI MERCHANT MARINE CO. LTD'S ANSWER TO COMPLAINT, by regular U.S. mail and by ECF, to the following attorneys at their ECF registered address and at the following address:

To: David Mazaroli, Esq.  
11 Park Place – Suite 1214  
New York, New York 10007  
(212) 267-8480

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(516) 877-2225

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New York, New York 10007  
(866) 434-4440

  
Jennifer Scianna

DATED: September 5, 2007  
New York, New York